REMARKS/ARGUMENTS

Overview

The Examiner responded in the prior Office Action as follows: rejected claims 1-4, 6-8, 10-12, 14-16 and 18 under 35 U.S.C. § 102(e) as being anticipated by Hartmaier (U.S. Patent No. 6,553,022), and rejected claims 5, 9, 13 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Hartmaier in view of Ronen (U.S. Patent No. 5,745,556). Applicant respectfully traverses these rejections, and claims 1-18 continue to be pending.

In addition, Applicant notes that the Examiner has not indicated whether the references included in Applicant's Information Disclosure Statement (IDS) filed July 31, 2003 have been considered. Applicant thus respectfully requests that the Examiner acknowledge consideration of the references of the previously submitted IDS by initialing each reference on a copy of the IDS and returning the copy to the Applicant's representative.

Embodiments of the Present Invention

Embodiments of the present invention are directed to assisting with the placement of a telephone call by a user via a modem, such as a modem in a shared modem pool that is accessible over a network by users of that network. In some embodiments, the disclosed techniques are used to restrict the ability of users to place outgoing phone calls over a modem so that only authorized users of the network are allowed to place such calls, thus ensuring that billing of the appropriate user can be accomplished. For example, in some embodiments after receiving a request from a user of a network to place a call via one of the modems of a shared modem pool but before placing the call, the user is authenticated as a valid user of the network and authorized to place the call based on identifying information for that user. If the user is determined to be authorized, the call is then placed, and the user identifying information is used to bill the user for the telephone call that they placed.

6

The Hartmaier Reference

Hartmaier is directed to techniques to allow users of the telephone network to access a data network (e.g., the Internet), such as in conjunction with an ISP ("Internet Service Provider") with which a user has an account. In particular, rather than having an ISP directly receive calls over the telephone network made by the modems of users' computers, an intermediary authorization component instead is used to receive such calls (which may be received via a modem pool in a standard manner). After receiving a telephone call from a user, a determination is made whether the user has a valid account at a specified ISP, and if so the user is given access to the data network via a data port of the authorization component.

Thus, Hartmaier is unrelated to controlling access to which users can place outgoing phone calls and to authenticating a user as an authorized network user before such outgoing phone calls can be made, and in particular does not perform such authentication before allowing a telephone call for the user to be placed via a modem.

The Ronen Reference

Ronen is directed to techniques for an ISP (Information Service Provider) to bill users for information and/or interactive services. In particular, a user first places a call to a 900 telephone number that is associated with the ISP, or the user can instead place a call to the ISP and the ISP can notify the telephone company of the 900 telephone call. The telephone company then charges the user for the telephone call in the normal manner as for any telephone call with a toll charge, and provides payment to the ISP based on the charges to the user.

Thus, Ronen is unrelated to controlling access to which users can place outgoing phone calls and to authenticating a user as an authorized network user before such outgoing phone calls can be made, and in particular does not perform such authentication before allowing a telephone call for the user to be placed via a modem.

Analysis

The Examiner has rejected all of the pending claims based on Hartmaier, either alone or in combination with Ronen. However, the pending claims include features and provide functionality not disclosed by Hartmaier or Ronen, and are thus allowable.

In particular, Applicant has previously explained to the Examiner that Ronen and previously cited prior art reference Nolting were unrelated to the claims, in that neither of those cited references had any relationship to restricting the ability of users to place outgoing phone calls over a modem so that only authorized users of the network are allowed to place such calls. As the Examiner has withdrawn the previous rejections and cited the new prior art reference Hartmaier, the Examiner apparently agreed that the pending claims were allowable over those previously cited prior art references.

However, the Hartmaier system is almost identical to that of Ronen, and thus the pending claims are patentable over Hartmaier for at least the same reasons that they are patentable over Ronen. In particular, the only relevant distinction between Ronen and Hartmaier is that, rather than having incoming telephone calls from users' computers' modems be received directly by a modem pool at the ISP as with Ronen, in Hartmaier such incoming telephone calls from users' computers' modems are received by a modem pool at an intermediary authorization component that can interact with multiple different ISPs over a data network. If, after receiving a telephone call from a user made by the user via a modem of the user's computer, the user is determined to be a valid user, the authorization component of Hartmaier provides user access to the Internet over a data port (in a manner identical to that performed by an ISP's system). Hartmaier makes clear that its described techniques are for use with providing access to a data network rather than for placing outgoing telephone calls, indicating that "the local switch 208 recognizes the IAN as a . . . request for access to the Internet, as distinguished from a request to place an ordinary telephone call." (Hartmaier, 4:62-65.)

Hartmaier is thus unrelated to restricting the ability of users to place outgoing phone calls over one or more shared modems on a network. Moreover, since the Examiner has failed to identify any aspects of Hartmaier that correspond to the recited claim elements related to such restricting of placing outgoing phone calls, the Examiner

8

has failed to establish even a prima facie case of obviousness with respect to the pending claims.

In particular, one reason that claim 1 is patentable over Hartmaier and Ronen is that it recites "receiving a request from a user of the network to place a telephone call through the modem" and "before the telephone call is placed through the modem, authenticating the request as coming from a valid user of the network". Neither Hartmaier nor Ronen do anything remotely similar to these recited activities, and the Examiner has failed to even address these claim elements in the prior Office Action. Moreover, since Hartmaier and Ronen are both directed to performing various functionality <u>after receiving a telephone call made by a user over the modem of their computer</u>, it would be impossible for the systems described by Hartmaier and Ronen to perform these recited claim elements of authenticating a request to place a telephone call over a modem before the telephone call is made – simply put, the Hartmaier and Ronen systems are inoperable to perform the recited claim elements.

In addition, not only are the systems inoperable to perform the recited claim elements, but they would have no motivation to do so even if it were possible. As Applicant previously pointed out with respect to Ronen and Nolting, those references are directed to different goals than the claimed invention, and Ronen would have no motivation to include the recited authentication of users prior to allowing outgoing calls to be placed over a modem. Similarly, Hartmaier would have no motivation to authenticate users prior to allowing outgoing calls to be placed over a modem. In particular, Hartmaier explicitly describes that its activities related to verifying the authority of users to receive Internet access are performed <u>after receiving a telephone call made by a user via the modem on the user's computer</u>, as follows:

> The method steps performed in accordance with the present invention in order to provide computer 202 with access to the Internet 226 are described below in accordance with the flowchart of FIG. 3. In step 302 a subscriber using computer 202 places a dial-up modem call utilizing modem 204 to an Internet access number (IAN). . . . The IAN digits are transmitted from modem 204 to local switch 208 via POTS line 206. . . . <u>The call is received by the authentication platform 218 and is assigned to one of the available modems in the modem pool 210. . . . In step 318 the authentication platform 218 determines whether the subscriber is authorized</u> based on the response received from the ISP 228. . . . If the authentication message received from the ISP 228 indicates that the subscriber is authorized, then in step 320 the authentication platform 218 connects the subscriber to the Internet 226 via an output port of authentication platform 218.
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> Hartmaier, 4:54-5:49 (emphasis added).

Thus, claim 1 is patentable over Hartmaier and Ronen for at least the reasons indicated. In addition, the other independent claims 6, 10 and 15 each recite similar language, and are thus similarly patentable for at least the same reasons. For example, claim 6 recites "a user that has made the request through the network to place the telephone call via a modem pool", "before placing the telephone call via the modem, . . . authenticate the user as a valid user of the network", and "if the user is authenticated as a valid user of the network, . . . placing the telephone call via the modem". Similarly, claim 10 recites "a user of the network that has requested to place a telephone call via a shared modem pool" and "after the user has been authenticated as a valid user of the network, place the telephone call via the shared modem pool". Claim 15 similarly recites "receiving a request from a user of the network to place a telephone call via a shared modem pool having multiple modems" and "if the user identifying information received is authenticated, . . . placing the telephone call via one of the modems of the shared modem pool".

The pending dependent claims include the features of those claims from which they depend, and are thus allowable for the same reasons as those claims. Moreover, the pending dependent claims also recite additional features lacking in the cited references, and are thus allowable on the basis of those features as well, although those various features are not enumerated here for the sake of brevity.

10

Conclusion

In light of the above remarks, Applicant respectfully submits that all of the pending claims are allowable. Applicant therefore respectfully requests the Examiner to reconsider this application and timely allow all pending claims. Moreover, if the Examiner believes that it will expedite resolution of any outstanding issues, Applicant encourages the Examiner to contact the Applicant's representative at (206) 359-6380.

Respectfully submitted,

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